

# HOUSE BILL 1286

P2

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By: **Delegates Tarrant, Braveboy, Costa, Kipke, Nathan-Pulliam,  
Pena-Melnyk, and Reznik**

Introduced and read first time: February 15, 2012

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Noncompetitive Negotiation – Repeal of Limitations**

3 FOR the purpose of expanding the authorized use of noncompetitive negotiation by  
4 specifically including the procurement of health services and repealing certain  
5 limitations on the types of individuals receiving certain services and a certain  
6 requirement that the Department of Budget and Management must approve the  
7 use of noncompetitive negotiation for a certain class of procurement; repealing a  
8 certain requirement that certain heads of certain units approve certain  
9 determinations; and generally relating to State procurement and the use of  
10 noncompetitive negotiation.

11 BY repealing and reenacting, with amendments,  
12 Article – State Finance and Procurement  
13 Section 13–106  
14 Annotated Code of Maryland  
15 (2009 Replacement Volume and 2011 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article – State Finance and Procurement**

19 13–106.

20 (a) A procurement officer may award a procurement contract on the basis of  
21 noncompetitive negotiation if:

22 (1) the procurement is for **HEALTH**, human, social, or educational  
23 services [to be provided directly to individuals with disabilities, individuals who are

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 aged, indigent, disadvantaged, unemployed, mentally or physically ill, or displaced or  
2 minors];

3 [(2) the procurement is one of a class for which the Department of  
4 Budget and Management has approved the use of noncompetitive negotiation;] and

5 [(3)] (2) [with the approval of the head of the unit,] the procurement  
6 officer determines that:

7 (i) at least 2 sources are available for the services; but

8 (ii) the absence of effective competition makes it unreasonable  
9 to expect bids or proposals from the available sources.

10 (b) (1) Whenever a procurement is based on noncompetitive negotiation, a  
11 unit shall publish a request for general expressions of interest.

12 (2) A request for general expressions of interest shall:

13 (i) state the general requirement for services;

14 (ii) request interested service providers to respond in writing  
15 with general expressions of interest; and

16 (iii) be published in the same manner as required for an  
17 invitation for bids.

18 (c) (1) To satisfy all or part of the requirements of the State as they occur,  
19 and without additional advertising, the procurement officer may conduct discussions  
20 with any responsible service provider who has submitted an expression of interest.

21 (2) As far as practicable in the course of administering a program, the  
22 unit shall treat fairly and equally with respect to discussions all responsible service  
23 providers who have submitted expressions of interest.

24 (d) After obtaining any approval required by law, the unit may award a  
25 procurement contract if the head of the unit determines, on the basis of continuing  
26 discussions or past program experience, that an award will serve the best interests of  
27 the State.

28 (e) A unit shall publish in eMaryland Marketplace notice of a procurement  
29 contract awarded under this section.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 October 1, 2012.